

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

SHYANDREA HESTER and MARY
HESTER,

Plaintiffs,

v.

LOWNDES COUNTY COMMISSION,
CHRISTOPHER BROWN,
EMERGYSTAT, DEPUTY JIMMY
HARRIS, et al.,

Defendants.

CIVIL ACTION NO.:
CV-06-572-WHA

**DEFENDANTS' EMERGYSTAT, INC.'S AND CHRISTOPHER BROWN'S
RESPONSE IN OPPOSITION TO PLAINTIFF'S OBJECTION TO
DEFENDANTS' WITNESS AND EXHIBIT LIST**

COME NOW the defendants, **Emergystat, Inc. and Christopher Brown**, in response in opposition to Plaintiff's Objection to Defendants' Witness and Exhibit List, and state the following:

1. Plaintiff objects to Defendants listing of their expert, Edgar Calloway, on Defendants' Witness and Exhibit List. However, Plaintiff fails to offer reason to support such objection.

2. Defendants served Plaintiff with Defendants' Rule 26(a)(2) Expert Disclosure and Report of Edgar Calloway on May 2, 2007, which was in adherence to the deadline entered by this Court's original Uniform Scheduling Order.¹

¹ Defendants disclosed such information in a timely manner even following Plaintiff's failure to comply with the court's Scheduling Order of serving an Expert Report with Plaintiff's Rule 26(a)(2) Expert Disclosure. On that same day of Defendants' disclosure of their expert, Defendants wrote to the Plaintiff and requested she comply with the Court's Order by supplementing her Expert Report. (Please see attached, Defendants' Exhibit A).

3. Plaintiff never requested dates for the deposition of defendants' expert, Edgar Calloway, nor did Plaintiff unilaterally notice Mr. Calloway's deposition as Plaintiff had done on two prior occasions for the deposition of Defendant Christopher Brown.

4. Defendants did not prohibit the Plaintiff from deposing Mr. Calloway, and Plaintiff has not offered evidence supporting anything to the contrary.

WHEREFORE, these Defendants, Emergystat, Inc. and Christopher Brown, respectfully request this Court to deny Plaintiff's request/objection to preclude Edgar Calloway from testifying and permit these Defendants the opportunity to call Edgar Calloway as an expert witness in the trial of this matter.

Respectfully submitted,

s/ Celeste Holpp

Celeste P. Holpp

Bar Number: ASB-0013-A50C

Attorney for Defendants

Norman, Wood, Kendrick & Turner

Financial Center – Suite 1600

505 20th Street North

Birmingham, Alabama 35203

Phone: (205) 328-6643

Fax: (205) 251-5479

Direct Dial: (205) 259-1035

Email: cholpp@nwkt.com

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

SHYANDREA HESTER and MARY
HESTER,

Plaintiffs,

V.

CIVIL ACTION NO.:
CV-06-572-WHA

LOWNDES COUNTY COMMISSION,
CHRISTOPHER BROWN,
EMERGYSTAT, DEPUTY JIMMY
HARRIS, et al.,

Defendants.

CERTIFICATE OF SERVICE

I hereby certify that on the 18th day of June, 2007, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

James Earl Finley
Tyrone Townsend

finleylawfirm@aol.com
TTowns1@msn.com

s/ Celeste P. Holpp
Norman, Wood, Kendrick & Turner
Financial Center – Suite 1600
505 20th Street North
Birmingham, AL 35203
Phone: (205) 328-6643
Fax: (205) 251-5479
Direct Dial: (205) 259-1035
Email: cholpp@nwkt.com